

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

JACK I. DODGE, M.D.

Holder of License No. 15597
For the Practice of Allopathic Medicine in
the State of Arizona

Docket No. 04A-15597-MDX

Case No. MD-04-0163A

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER FOR LICENSE
SUSPENSION**

On June 10, 2004 this matter came before the Arizona Medical Board ("Board") for oral argument and consideration of the Administrative Law Judge (ALJ) Brian Brendan Tully's proposed Findings of Fact and Conclusions of Law and Recommended Order. Jack I. Dodge, M.D. ("Respondent") was notified of the Board's intent to consider this matter on the aforementioned date at the Board's public meeting. Respondent appeared personally and was not represented by counsel. Assistant Attorney General Dean E. Brekke represented the State. Assistant Attorney General Christine Cassetta, with the Solicitor General's Section of the Attorney General's Office, was present and available to provide independent legal advice to the Board.

The Board, having considered the ALJ's report and the entire record in this matter hereby issues the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. The Arizona Medical Board ("Board") is the duly constituted authority for licensing and regulating the practice of allopathic medicine in the State of Arizona.
2. Respondent, Jack I. Dodge, M.D. is the holder of License No. 15597 issued by the Board for the practice of allopathic medicine in the State of Arizona.
3. Respondent is also licensed to practice allopathic medicine in the State of South Dakota.

1 4. On or about January 26, 2004 Dr. Dodge contacted Board staff and advised that
2 he had been participating in the Health Professional Assistance Program ("HPAP")
3 offered by the South Dakota Medical Board following his treatment for chemical
4 dependency at Hazelden in Minnesota.

5 5. Respondent stated to Board staff that he had moved to Arizona, where his
6 mother resides, in December 2003. He asked for information regarding enrolling in the
7 Board's Monitored Aftercare Program ("MAP").

8 6. Kathleen Muller, senior compliance officer for MAP, advised Dr. Dodge that he
9 would need to interview with her and Michael Sucher, M.D., who is a Board consultant in
10 addiction medicine. Ms. Muller also requested a compliance letter from the South Dakota
11 Medical Board.

12 7. Ms. Muller and Dr. Sucher reviewed the compliance letter sent by HPAP.

13 8. Dr. Dodge had completed a 28-day inpatient treatment at Hazelden.

14 9. Dr. Dodge testified that his stay at Hazelden was the best 28 days of his life.

15 10. At Hazelden, Dr. Dodge was diagnosed as alcohol dependent, cocaine
16 dependent, and opiate dependent.

17 11. Dr. Dodge did fairly well participating in HPAP until approximately one year ago.

18 12. Dr. Dodge got into severe financial trouble. He had to close his clinic and worked
19 part-time for a period at another clinic. Dr. Dodge subsequently filed for bankruptcy;
20 however, the record, which consists only of testimonial evidence, does not reflect the
21 status of his bankruptcy.

22 13. During that period of time, Dr. Dodge's compliance with HPAP requirements
23 became sporadic.

1 14. During the summer of 2003, Dr. Dodge relapsed by consuming several beers
2 during a golf outing with friends.

3 15. In December 2003, Dr. Dodge stopped calling for urine drug screen under the
4 HPAP.

5 16. During his interview with Dr. Sucher, Dr. Dodge felt that he was in compliance
6 with HPAP. However, the South Dakota Medical Board did not.

7 17. Dr. Sucher was, and is, concerned about Dr. Dodge's non-compliance with the
8 HPAP requirements for almost a year, his admission of drinking, and his lack of a
9 sponsor.

10 18. Dr. Sucher stressed that it is important for a participant's compliance with a
11 monitoring program to assure a physician's safety to practice.

12 19. Dr. Sucher raised concern about Dr. Dodge's relapse. He opined that it shows
13 that Dr. Dodge's alcohol recovery program is not working.

14 20. Dr. Sucher recommended that Dr. Dodge obtain a 3 to 7 day inpatient evaluation
15 at a Board approved center, that Dr. Dodge follow the recommendations made by the
16 evaluators, and that he be placed in MAP.

17 21. Dr. Dodge refused a consent agreement offered by the Board's Executive
18 Director that included Dr. Sucher's recommendations. Dr. Dodge has refused that offer
19 because he claims that he does not have the financial resources to pay for it.

20 22. Dr. Dodge has been living with his mother in Arizona. His mother put his Arizona
21 medical license renewal fee on her credit card. Dr. Dodge testified that his mother feels
22 guilty that she got him into this situation with the Board because she assisted him with
23 the renewal. Dr. Dodge's mother should feel no guilt. Dr. Dodge needs help in his
24 rehabilitation in order to practice safely. Both the South Dakota Medical Board and the
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1 Arizona Medical Board have taken actions to assist Dr. Dodge with his rehabilitation while
2 fulfilling their respective responsibilities to assure that he can practice allopathic medicine
3 safely.

4 23. Dr. Dodge testified that he feels he is being punished for his honest admission of
5 relapsing. In this case, it is determined, once again, that the Board seeks to assist Dr.
6 Dodge in his rehabilitation so that he can resume safely practicing allopathic medicine in
7 the State of Arizona if he becomes successfully rehabilitated.

8 24. Dr. Dodge testified that in the future he would tell aftercare participants to lie to
9 avoid the results of honest self-reporting. That point of view is both disturbing and
10 unprofessional. Such a statement reinforces the need for Dr. Dodge to be strictly
11 monitored in an aftercare program.

12 25. Dr. Dodge testified that he is asking for a little help. That appears to be exactly
13 what the South Dakota Medical Board and the Arizona Board have attempted to do within
14 their ultimate responsibilities to protect the public health and safety in their respective
15 states.

16 26. Dr. Dodge credibly testified that there have been no patient complaints about his
17 practice as an emergency room physician. Dr. Dodge's medical competency is not at
18 issue. The issue is his ability to safely practice medicine.

19 27. As a result of its investigation, the Board determined that it had been presented
20 with sufficient, substantial and reliable information concerning Dr. Dodge's professional
21 conduct to conclude, pending formal administrative hearing, that the public health, safety
22 and welfare imperatively required emergency action by the Board against Dr. Dodge's
23 Arizona medical license.

1 28. On February 13, 2004, pursuant to authority granted by A.R.S. § 32-1451(D), the
2 Board acted to summarily suspend Dr. Dodge's License No. 15597 pending a formal
3 hearing.

4 29. Dr. Dodge testified that on Friday, April 2, 2004 he received a report from the
5 South Dakota Board that he was now in compliance with HPAP.

6 30. Dr. Dodge expressed a willingness to voluntarily surrender his Arizona medical
7 license provided that it is without punishment.

8 31. Dr. Dodge's personal and professional life is in dire straits. He is broke
9 financially. He is unemployed. He is living with and supported by his generous mother.
10 He has relapsed in his alcohol addiction with no effective rehabilitation program. Dr.
11 Dodge is in his predicament not because of the South Dakota Medical Board, the Arizona
12 Medical Board or his mother; Dr. Dodge is the responsible one. Dr. Dodge needs and
13 should seek help in the most serious way.

14 CONCLUSIONS OF LAW

15 1. The Board possesses jurisdiction over the subject matter hereof and over Dr.
16 Dodge.

17 2. Pursuant to A.A.C. R2-19-119, the Board has the burden of proving the
18 allegations of unprofessional conduct by Dr. Dodge by a preponderance of the evidence.

19 3. The Administrative Law Judge concludes that the Board had reasonable
20 suspicion to support its emergency action in summarily suspending Dr. Dodge's medical
21 license, pursuant to A.R.S. § 32-1451(D), in order to protect the public health, safety and
22 welfare.

1 4. The conduct and circumstances described in the above Findings of Fact
2 constitute unprofessional conduct by Dr. Dodge pursuant to A.R.S. § 32-1401(26)(f)
3 (habitual intemperance in the use of alcohol or habitual substance abuse).

4 5. Pursuant to A.R.S. § 32-1451(U), the Board may accept the voluntary surrender
5 of an active license if the licensee admits in writing to any of the following: being unable
6 to safely engage in the practice of medicine; having committed an action of
7 unprofessional conduct; and/or having violated any provisions of A.R.S. § 32-1401 *et*
8 *seq.* or a board rule. If Dr. Dodge desires to voluntarily surrender his Arizona medical
9 license, he must comply with the statutory provision in such a request to the Board.
10 However, the Board would have discretion to accept or deny such voluntary surrender.

11 **ORDER**

12 Based upon the Findings of Fact and Conclusions of Law as adopted, the Board
13 hereby enters the following Order:

14 1) Respondent's license is suspended until such time as the Board receives
15 written proof that Respondent has successfully completed a Board-approved in-patient
16 evaluation as recommended by Dr. Sucher; he complies with the recommendations of the
17 evaluation/treatment center; and the Board approves his return to the practice of
18 allopathic medicine.

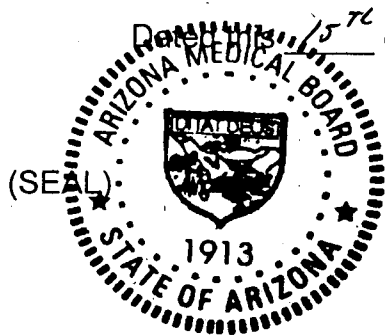
19 2) Upon Respondent's return to practice an Order shall be issued placing
20 Respondent on probation for five years pursuant to the Board's Monitored Aftercare
21 Program. Said probation shall also require Respondent to obey all federal, state, and
22 local laws, all rules governing the practice of medicine in Arizona, and remain in
23 compliance with any court ordered criminal probation, payments and other orders.

1 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

2 Respondent is hereby notified that he has the right to petition for a rehearing or
3 review by filing a petition with the Board's Executive Director within thirty (30) days after
4 service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient
5 reasons for granting a rehearing. A.C.C. R4-16-102. Service of this order is effective five
6 (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order
7 becomes effective thirty-five (35) days after it is mailed to Respondent.

8 Respondent is further notified that the filing of a motion for rehearing is required
9 to preserve any rights of appeal to the Superior Court.

10 Date of this 15th day of June 2004.



ARIZONA MEDICAL BOARD

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By: Barry A. Cassidy
Barry A. Cassidy, Ph.D., P.A.-C
Executive Director

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Original of the foregoing filed this
15th day of June 2004, with:

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Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, AZ 85258

Copy of the foregoing filed this
15th day of June 2004, with:

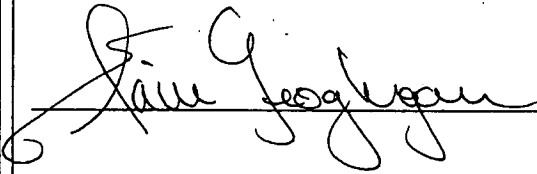
Cliff J. Vanell, Director
Office of Administrative Hearings
1400 W. Washington, Ste. 101
Phoenix, AZ 85007

1 Executed copy of the foregoing mailed
2 by Certified Mail this 5th day of June
3 2004, to:

4 Jack I. Dodge, M.D.
5 (Address of record)

6 Executed copy of the foregoing mailed
7 this 5th day of June, 2004, to:

8 Dean E. Brekke, Esq.
9 Assistant Attorney General
10 Office of the Attorney General
11 CIV/LES
12 1275 W. Washington
13 Phoenix, Arizona 85007

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